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**WILLIAM R. BENZ, ESQ. #037376**  
900 Larkspur Landing Circle, Suite 185  
Larkspur, California 94939  
Telephone: (415)461-6633

**SPECIAL REFEREE**

**FILED**

**APR 19 1995**

**HUGHES ARMSTRONG  
MARIN COUNTY CLERK  
BY: E. Keswick Deputy**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

**CHURCH OF SCIENTOLOGY  
INTERNATIONAL, a California not-for-  
profit religious corporation,**

**Plaintiff,**

**vs.**

**GERALD ARMSTRONG, MICHAEL  
WALTON, THE GERALD ARMSTRONG  
CORPORATION, a California not-for-  
profit corporation, et al.,**

**Defendants.**

**No. 157680**

**REPORT AND RECOMMENDATION  
OF DISCOVERY REFEREE RE  
PLAINTIFF'S MOTION FOR ORDER  
COMPELLING COMPLIANCE WITH  
COURT ORDER RE MICHAEL AND  
SALINA WALTON**

**Hearing Date: 4/6/95  
Trial Date: 5/18/95**

**ORDER OF REFERENCE**

This court has appointed the undersigned, WILLIAM R. BENZ, as Special Referee in this action for the purpose of supervising, hearing, and determining any and all motions and disputes relating to discovery.

**HEARING**

A hearing was held on April 6, 1995 at the office of William R. Benz. Present were Laurie Bartilson, Esq. on behalf of plaintiff; defendant Gerald Armstrong, in pro per and on behalf of the Gerald Armstrong Corporation; and Michael Walton, defendant, on behalf of himself and Salina Walton. The hearing was reported.

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## MATTER CONSIDERED AND DECIDED

The matter considered and decided was plaintiff's motion for an order compelling compliance with court order re inspection of real property and for sanctions against Michael and Salina Walton.

### FINDINGS

The Special Referee finds:

1. Plaintiff served by mail a demand for inspection of real property on defendants Michael and Salina Walton on November 27, 1994. Defendant Walton timely served objections to the Demand for Inspection on October 17, 1994. There were various objections including an objection based on the 30 day before trial discovery cut-off rule. There was no motion to compel inspection.

2. Plaintiff noticed a Motion for leave to Complete Discovery for hearing before the court on December 16, 1994. The Notice of Motion in its body states plaintiff "will and does hereby move, pursuant to CCP § 2024(e), for an order granting the Church leave to complete discovery in this action." While there was discussion in plaintiff's motion regarding the inspection of the property as a reason for need for further time to complete discovery, there was no motion to compel inspection of the property.

3. On December 16, 1994, the court ruled in response to plaintiff's motion:

"Plaintiff's motion for leave to complete discovery is granted. The new discovery cut-off date March 16, 1995."

4. On December 19, 1994, plaintiff served by mail another demand for inspection of real property on the Waltons. The Waltons timely served objections on January 11, 1995. There was no motion to compel inspection.

5. Plaintiff then brought the subject motion to compel compliance with the court's December 16, 1994 order.

6. The court did not include an order compelling inspection as a part of its December 16, 1994 order.



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7. Plaintiff's motion should therefore be denied.

8. There was no substantial justification for the bringing of the subject motion. Defendant's Michael and Salina Walton are entitled to sanctions against plaintiff in the sum of \$500.00 under the provision of Code of civil Procedure section 2031(e). All other requests for sanctions should be denied.

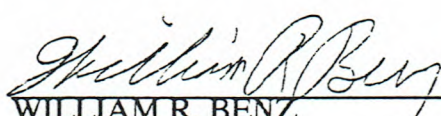
9. The fees for the Special Referee continue to be divided equally among the parties as follows: Church of Scientology to pay one-third; Gerald Armstrong to pay one-third; Michael Walton to pay one-third, payable within 10 days of billing.

**RECOMMENDATIONS**

The Special Referee recommends that the Court make the order set forth below.

Dated: April 10, 1995

Respectfully submitted,

  
WILLIAM R. BENZ

**PROPOSED ORDER**

Having considered the above report of the Special Referee and good cause appearing,

IT IS ORDERED

1. The Report of the Special Referee is adopted.

2. The motion of plaintiff Church of Scientology, International for an order compelling compliance with court order compelling inspection of real property and for sanctions against Michael and Salina Walton is denied.

3. Plaintiff Church of Scientology International shall pay the sum of Five Hundred Dollars (\$500.00) to defendants Michael and Salina Walton as sanctions under Code of Civil Procedure section 2031(l) payable within 30 days after entry of this order. Any other request for sanctions is denied.

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4. Fees of the Special Referee shall continue to be divided among the parties as follows: Church of Scientology to pay one-third; Gerald Armstrong to pay one-third; Michael Walton to pay one-third, payable within 10 days of billing.

Dated: 4-17-95

GARY W. THOMAS  

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GARY W. THOMAS  
JUDGE OF THE SUPERIOR COURT



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**PROOF OF SERVICE BY MAIL**

I am employed in the County of Marin. I am over the age of eighteen years and not a party to the within action; my business address is 900 Larkspur Landing Circle, Suite 185, Larkspur, California 94939.

On April 10, 1995 I served the within Report and Recommendation of Discovery Referee Re Plaintiff's Motion for Order Compelling Compliance with Court Order re Michael and Salina Walton in said action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Larkspur, Marin County, California, addressed as follows:

Laurie Bartilson, Esq.  
Bowles & Moxon  
6255 Sunset Blvd., Suite 2000  
Hollywood, CA 90028

Gerald Armstrong  
715 Sir Frances Drake Blvd.  
San Anselmo, CA 94960

Michael Walton, Esq.  
Attorney at Law  
P. O. Box 751  
San Anselmo, CA 94960

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: April 10, 1995

  
KATHY DUXTON NAGEL